

Summary of Act 16: Municipal and Regional Flood Resilience Plan Legislation 2013

Act No. 16. An act relating to municipal and regional planning and flood resilience (H-401, originally H.52 and H.72) was signed by Governor Peter Shumlin on May 6, 2013.

Act 16 addresses two components:

- 1. Flood Resilience Element** will be required for municipal and regional plans (effective July 1, 2014); and,
- 2. Accessory Dwelling Units** may now be regulated in hazard areas (effective immediately)

1. Flood Resilience Plan

The Act requires that after July 1, 2014 municipal and regional plans include a flood resilience element.

Municipal land use regulations (including hazard area regulations and zoning) must be in conformance with the municipal plan and the purposes set in 24 VSA §4302. Plans are valid for up to five years. Currently 61% of Vermont municipalities have a valid plan. Municipal plans (24 VSA § 4382) include twelve elements (including land use, transportation) and are required for the adoption of flood regulations or zoning amendments. The requirement for Regional Plans (24 VSA §4348a) are similar.

The Goals for the Flood Resilience Element are established in § 4302.

§4302. PURPOSE; GOALS

(14) To encourage flood resilient communities.

(A) New development in identified flood hazard, fluvial erosion, and river corridor protection areas should be avoided. If new development is to be built in such areas, it should not exacerbate flooding and fluvial erosion.

(B) The protection and restoration of floodplains and upland forested areas that attenuate and moderate flooding and fluvial erosion should be encouraged.

(C) Flood emergency preparedness and response planning should be encouraged.

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

(12)

(A) A flood resilience plan that:

(i) identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and

(ii) recommends policies and strategies to protect the areas identified and designated under subdivision (12)(A)(i) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments.

(B) A flood resilience plan may reference an existing local hazard mitigation plan approved under 44 C.F.R. § 201.6.

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include but need not be limited to the following:

* * *

(11)

(A) A flood resilience element that:

(i) identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and

(ii) recommends policies and strategies to protect the areas identified and designated under subdivision (11)(A) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and public investments.

(B) A flood resilience element may reference an existing regional hazard mitigation plan approved under 44 C.F.R. § 201.6.

Communities that have a plan approved by the Regional Commission are eligible for funding through the Municipal Planning Grant Program. Approved plans must be consistent with the Goals §4302, compatible with the regional plan and other approved plans, and include the elements listed in §4382.

Act 16 also requires the Secretary of Natural Resources (10 VSA §1427) to aid and support municipalities in their work to adopt municipal flood resilience plans and of river corridor, floodplain, and buffer bylaws. Some of this effort is developing through the Flood Resilient Communities Program / Focus on Floods initiative that will be creating a one-stop web portal to support municipal officials.

§ 1427. RIVER CORRIDORS AND BUFFERS

(a) River corridor and floodplain management program. The Secretary of Natural Resources shall establish a river corridor and floodplain management program to aid and support the municipal adoption of a flood resilience plan under 24 V.S.A. § 4382 and of river corridor, floodplain, and buffer bylaws.

Under the river corridor and floodplain management program, the Secretary shall:

(1) assess the geomorphic condition and sensitivity of the rivers of the State and identify where the sensitivity of a river poses a probable risk of harm to life, property, or infrastructure.

(2) delineate and map river corridors based on the river sensitivity assessments required under subdivision (1) of this subsection according to a priority schedule established by the Secretary by procedure; and

(3) develop recommended best management practices for the management of river corridors, floodplains, and buffers.

2. Accessory Dwelling Units

In statute Accessory Dwelling Units can now be fully regulated by municipalities consistent with other development in flood hazard and erosion hazard areas. This enables communities to avoid new development in hazard areas and to require flood-proofing and safety standards for proposed improvements as required for communities participating in the National Flood Insurance Program. Act 16 amends the language providing for both bylaws and for ordinances.

24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

* * *

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling....

and

24 V.S.A. § 2291(25) is amended to read:

(25) To regulate by means of an ordinance or bylaw development in a flood hazard area, river corridor protection area, or other hazard area consistent with the requirements of section 4424 of this title and the National Flood Insurance Program. Such an ordinance or bylaw may regulate accessory dwelling units in flood hazard and fluvial erosion areas.

[Act 16 full text](#)

[Vermont River Corridor and Floodplain Program](#)